

TRANSPORTATION CODE

CHAPTER 392. HIGHWAY BEAUTIFICATION ON STATE HIGHWAY RIGHT-OF-WAY  
SUBCHAPTER A. LANDSCAPE AND MAINTENANCE

Sec. 392.001. PLANTING TREES ON RIGHTS-OF-WAY. (a) The department shall plant and care for a substantial number of pecan trees on United States and state highway rights-of-way throughout the state.

(b) In an area where the climate is unsuitable for pecan trees or where pecan trees present a safety hazard, the department shall plant other indigenous or adaptable trees that do not present a safety hazard.

(c) The cost of acquiring, planting, and caring for the pecan trees shall be paid from the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.002. XERISCAPE REQUIREMENTS FOR ROADSIDE PARKS. (a) The department shall use and require the use of xeriscape practices in:

(1) the construction of roadside parks; and

(2) the maintenance of roadside parks.

(b) In implementing this section, the department shall follow the guidelines adopted under Section 2166.404, Government Code.

(c) In this section:

(1) "Roadside park" includes a rest area, picnic area, welcome station, or other facility that is:

(A) provided for the convenience of the traveling public;

(B) within or adjacent to a highway right-of-way; and

(C) under the jurisdiction of the department.

(2) "Xeriscape" has the meaning assigned by Section 2166.404, Government Code.

(d) Expired.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(23), eff. Sept. 1, 1997.

SUBCHAPTER B. SIGNS ON STATE HIGHWAY RIGHT-OF-WAY

Sec. 392.031. DEFINITIONS. In this subchapter:

(1) "Sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed, intended, or used to advertise or inform.

(2) "State highway right-of-way" means the right-of-way of a highway designated as part of the state highway system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.032. OFFENSE. (a) A person may not place or maintain a sign on a state highway right-of-way unless authorized by state law.

(b) A person commits an offense if the person violates this section.

(c) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.0325. EXCEPTION. (a) A person may submit a request to the department for an exception to this subchapter for a sign that is attached to a building located on property other than a state highway right-of-way and that refers to a commercial activity or business located in the building if the sign:

(1) consists solely of the name of the establishment;

(2) identifies the establishment's principal product or services; or

(3) advertises the sale or lease of the property on which the sign is located.

(b) The department shall approve a request submitted under Subsection (a) if the department:

(1) determines that the sign will not constitute a safety hazard;

(2) determines that the sign will not interfere with the construction, reconstruction, operation, or maintenance of the highway facility; and

(3) obtains the approval of the Federal Highway Administration if approval is required under federal law.

Added by Acts 1999, 76th Leg., ch. 442, Sec. 3, eff. June 18, 1999.

Sec. 392.033. REMOVAL AND DISPOSAL OF ILLEGAL SIGN. (a) Except as provided by Section 392.034, the department, without prior notice to the owner of the sign, may remove a sign that is

placed or maintained in violation of this subchapter.

(b) If the owner's identity and mailing address are displayed on the sign or are otherwise reasonably ascertainable, the department shall notify the owner in writing that the sign:

(1) has been removed; and

(2) may be disposed of unless the owner claims the sign on or before the 10th day after the removal date.

(c) If the owner of the sign does not claim the sign on or before the 10th day after the removal date, the department may dispose of the sign.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.034. ENCROACHMENT. (a) The department shall give written notice of encroachment to the owner of a sign that:

(1) is on property other than a state highway right-of-way;

(2) is maintained under a written permit or agreement; and

(3) encroaches on the state highway right-of-way.

(b) If the owner of the sign does not correct the encroachment before the 31st day after the date of receipt of the notice, the department may remove the sign under Section 392.033.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.035. REMOVAL COSTS. (a) The owner of a sign removed by the department under Section 392.033 is liable to the department for removal costs.

(b) Removal costs received by the department under this section shall be deposited to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.036. DEFENSE. It is a defense to prosecution for a violation under Section 392.032 that at the time of the alleged violation:

(1) the defendant is a candidate for elective public office; and

(2) the sign is placed:

(A) by a person other than the defendant;

(B) without the knowledge of the defendant; and

(C) in connection with a campaign for an elective public office by the defendant.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.037. RULES. The commission may adopt rules to enforce this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.038. EFFECT OF OTHER LAW OR ORDINANCE. If this subchapter conflicts with another law or a local ordinance, the more restrictive provision applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.